

Snapshots of Methyl Bromide Regulations

- 2005 Critical Use Exemption
 - Final Rule published December 23
- 2005 Supplemental Allocations
 - Parties authorized some small, additional amounts for critical uses in November 2004
 - EPA to publish proposal
- 2006 Critical Use Exemption
 - Parties authorized exemptions in November 2004
 - EPA to publish proposal

2005 Critical Use Exemption: Framework

- Upstream allowance trading system
 - Critical Use Allowances (CUA) to producers/importers
 - Allow the allowance holder to produce and import mbr strictly for critical uses
 - 7,659,000 allowances issued to 4 companies
 - Pre-plant and post harvest bifurcation
 - Based on 1991 baseline
 - Critical Stock Allowances (CSA) to all inventory holders
 - Allow the allowance holder to sell inventories of mbr that were produced or imported before 1/1/05 to critical uses
 - 1,283,000 allowances issued to 28 companies
 - Universal allowances
 - Based on average 2003, 2004 holdings

In total, all the methyl bromide produced and imported with CUAs and sold from inventories with a CSA, constitute the total U.S. supply of methyl bromide for critical uses for 2005, known as “critical use methyl bromide”

How are Chemical Companies Regulated under this Action?

- Similar to the QPS exemption to the phaseout of methyl bromide for quarantine and pre-shipment purposes

Reporting:

- All CUA holders must report to EPA
 - Expended and unexpended CUAs quarterly
 - Amount of critical use mbr sold for each critical use “sector” annually
- All CSA holders must report to EPA
 - Expended and unexpended CSAs annually
 - Amount of critical use mbr sold for each critical use “sector” annually

How are Chemical Companies Regulated under this Action?

Record-keeping

- All sellers of “critical use mbr” (producers, distributors...) must retain certifications that the entity to whom they are selling this material understand that it is only for critical uses
- Sellers of critical use methyl bromide to entities who are critical users (applicators, distributors...) must keep records of the amount of critical use mbr sold for each “sector” and report that data to EPA
- Records must be retained for 3 years

Interaction with FIFRA?

- EPA is not amending any existing pesticide regulations with this action
 - No ban on non-critical uses that are allowed under FIFRA
 - No new label for mbr as a result of this rule

What are Critical Uses?

- Listed in regulation as table in appendix L
 - Table lists 15 sectors (tomatoes, cucurbits...)
 - Only covers those farmers/end users who applied for an exemption identified in table
 - Most applications were made on behalf of all users in a region OR on behalf of all members of an industry group
 - Some cases, individual companies applied
 - Users should have a reasonable expectation that one of the “limiting critical conditions” (LCCs) listed in appendix L is present or could occur

How do Critical Uses get Mbr?

- Almost the same way you do now
 - Go to your mbr supplier
 - Decide if you have a critical use
 - one of the approved sectors
 - that applied for an exemption
 - with a reasonable expectation that you have one of the LCCs
 - Sign a certification form stating that you are a critical use
 - Leave the form with your supplier when you make a critical use purchase who retains the form for at least three years